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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/551,973 04/14/00 WESTFIELD

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SEED INTELLECTUAL PROPERTY LAW GROUP PLL
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EXAMINER

BECKER, D.

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

04/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/551,973

Applicant(s)

WESTFIELD, BARBARA

Examiner

Drew E Becker

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-4, 6, 8-9, 11, 13-14, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Barradas [Pat. No. 5,445,061].

Barradas teaches a device and method for making bread comprising a baking chamber (Figure 5, 12), a frame with a base member coupled to a bottom region of the baking chamber (Figure 5, #48, 54, 56), vertically spaced removable trays (Figure 4, #41; Figure 5, #58, 60, 62), a source of heat (column 2, line 45), a container for bread making ingredients (Figure 2, 24), a mixing motor (Figure 2, 14), and mixing the ingredients in the container to form a dough, dividing the dough into portions, and placing the portions into trays (column 2, lines 57-70).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 7, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barradas.

Barradas teaches the above mentioned concepts as well as racks with holes (Figure 4, 48). It would have been obvious to one of ordinary skill in the art to provide trays with holes in the invention of Barradas since Barradas teaches holes in the racks (Figure 4, 48) and since trays with holes were commonly known and utilized as evidenced by Harrison [Pat. No. 5,588,352] (Figure 6, 36).

5. Claims 5, 10, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barradas in view of Smith-Berry et al [Pat. No. 5,890,421].

Barradas teaches the above mentioned concepts. Barradas does not teach a handle.

Smith-Berry et al teach a bread oven with a rack which has a handle (Figure 1, 30). It would have been obvious to one of ordinary skill in the art to incorporate the handle of Smith-Berry et al into the invention of Barradas since both are directed to bread

machines with racks and since the handle taught by Smith-Berry et al would provide an effective and convenient means to remove the racks of Barradas while reducing the chance of burning or injuring the operator.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Friedrich et al [Pat. No. 5,228,385], Glucksman et al [Pat. No. 5,901,637], Chadwick et al [Pat. No. 2,671,004], Cohn et al [Pat. No. 5,782,174], and Kelsey [Pat. No. 5,19,580] teach racks and bread making machines.

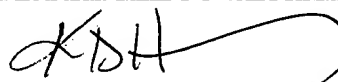
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew Becker
April 11, 2001



KEITH HENDRICKS
PRIMARY EXAMINER